

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

MICHELLE A. SAGALYN,

Plaintiff,

-against-

COTTAGES & GARDENS PUBLICATIONS, LLC  
and RICHARD EKSTRACT,

Defendants.

8/14/08  
Index No. 08 CV-5233 (GEL)

**CIVIL CASE MANAGEMENT PLAN**

After consultation with counsel for all parties, the following Case Management Plan is adopted. This plan is also a scheduling order pursuant to Rules 16(b) and 26(f) of the Federal Rules of Civil Procedure.

1. The case is to be tried by a jury. **Yes.**

Scheduling of pre-trial practice should be arranged with a view to having the case ready for trial within approximately twelve months of the initial pre-trial conference. For routine cases, discovery should be completed within six months of that conference.

2. Joinder of additional parties must be accomplished by **October 26, 2008**.
3. Amended pleadings may be filed until **October 26, 2008**.
4. All discovery (including expert discovery) is to be completed by **March 20, 2009**.

All fact discovery is to be completed by **March 20, 2009**.

Interim deadlines set below may be extended by the parties on consent without application to the Court, provided the parties can still meet the discovery completion dates ordered by the Court, which shall not be adjourned except upon a showing of extraordinary circumstances.

- A. First request for production of documents, if any, to be served by:  
**The parties have already served such requests.**
- B. Interrogatories pursuant to Local Rule 33.3(a) of the Civil Rules of the Southern District of New York to be served by:  
**The parties have already served such interrogatories.**  
No other interrogatories are permitted except upon prior express permission of the Court.

- C. Depositions to be completed by **March 20, 2009**.
  - i. Unless counsel agree otherwise or the Court so orders, depositions are not to be held until all parties have responded to any first requests for production of documents.
  - ii. Depositions shall proceed concurrently.
  - iii. Whenever possible, unless counsel agree otherwise or the Court so orders, non-party depositions shall follow party depositions.
  - iv. No depositions shall be extended beyond two business days without prior leave of the Court.
- D. Expert Discovery
  - i. Experts for plaintiff(s), if any, are to be designated by, and expert reports for plaintiff(s), shall be served by **January 15, 2009 for initial experts and February 25, 2009 for rebuttal experts**.
  - ii. Experts for Defendants(s), if any, are to be designated by, and expert reports for plaintiff(s), shall be served by **January 30, 2009 for initial experts and February 16, 2009 for rebuttal experts**.
  - iii. Experts may be deposed, but such depositions must occur within the time limit for all depositions set forth above.
- E. Requests to Admit, if any, are to be served no later than **March 20, 2009**.

5. **Dispositive Motions.** A schedule for dispositive motions, if any, will be set at the post discovery conference.

All motions and applications shall be governed by the Court's Individual Practice Rules, which are available on the Internet at <http://www.nysd.uscourts.gov>. Note that under those rules, two courtesy copies of all motion papers are to be provided to chambers by the movant at the time the reply is filed. It is the responsibility of the movant to make sure that copies of all parties' papers are provided at that time. Any party may request oral argument by letter at the time reply papers are filed. Whether or not requested, the Court will determine whether and when oral argument is to be held.

6. **Joint Pretrial Order.** The joint pretrial order shall be filed no later than 30 days after completion of discovery, or after the final decision of any dispositive motion, whichever is later, unless a different date is set by order of the Court. The requirements for the pretrial order and other pre-trial submissions shall be governed by the Court's Individual Practice Rules.
7. **Requests for Adjournments or Extensions of Time.** All requests for adjournments or extensions of time must be made in writing and state (1) the original date, (2) the number of previous requests for adjournment or extension, (3) whether these previous requests were granted or denied, and (4) whether the adversary consents, and, if not, the reasons given by the adversary for refusing to consent. If the requested adjournment or extension affects any other scheduled dates, a proposed Revised Scheduling Order (reflecting only business days) must be attached. If the request is for

an adjournment of a court appearance, absent an emergency, it shall be made at least 48 hours prior to the scheduled appearance.

8. **Discovery Disputes.** Unless otherwise directed, counsel should describe their discovery disputes in a single letter, jointly composed. Separate and successive letters will be returned, unread. Strict adherence to Fed. R. Civ. P. 37(a)(1), the “meet and confer” rule, is required, and should be described in the joint submission as to time, place, and duration, naming the counsel involved in the discussion. The joint letter shall describe concisely the issues in dispute and the respective position of each party, citing the applicable authority that the respective parties claim for support.
9. Counsel consent to trial (or other dispositive decision) by a U.S. Magistrate Judge.

**The parties do not consent.**

NEXT CASE MANAGEMENT CONFERENCE

Hand 27, 2009 at 10:00 a.m.  
(To be completed by the Court)

Dated:  
New York, New York

Aug. 14, 2008

SO ORDERED:

Gerard E. Lynch  
GERARD E. LYNCH  
United States District Judge